S.B. Civil Writ Petition No.3566/05

Ratan Lal Deora Vs. State & Ors.

Date of Order : 24/05/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. S.S. Hora, for petitioner
Mr. B.K. Sharma, Dy.G.A.

By the instant petition, petitioner is seeking for release of his pensionary/retiral benefits which became due and payable to him for the actual service which he has rendered in the Government of Rajasthan.

Petitioner initially joined service as LDC on 4th July, 1953 and served upto 31st December, 1963. Thereafter, he served Indian Army from 1st January, 1964 to 31st March, 1968 and so also from 1st January, 1972 to 31st July, 1972 in Bangladesh Operation in Indian Army Service and thereafter, he never reported for duty in his parent department i.e. State of Rajasthan.

This is undisputed that no adverse order has been passed by the respondents for not reporting for duty after he relieved from Indian Army and the petitioner has served for more than 10 years as LDC from 4th July, 1953 to 31st December, 1963.

Shri S.S. Hora, counsel for petitioner submits that he is entitled for pension with regard to actual service which he has rendered for more than 10 years of qualifying service under Rule 54(2)(b) of Rajasthan Pension Rules, 1996. Rule 54(2)(b) is reproduced as under:

> “Rule 54(2)(b) In the case of a Government servant retiring in accordance with the provisions of these rules before completing qualifying service of thirty three years,

> but after completing qualifying service of ten years, the amount of pension shall be proportionate to the amount of pension admissible under clause (a) and in no case the amount of pension shall be less than Rupees one thousand two hundred seventy five per mensem.”

and the above rule clearly postulates that 10 years is the minimum qualifying service which make an incumbent entitle for grant of pension. Denial of same is violative of Rules, 1996 and so also of his right under Articles 14 & 21 of the Constitution.

Respondents have filed reply to the writ petition and his actual service which the petitioner has rendered from July, 1953 to December, 1963 as LDC has not been disputed and in Para 10 his actual service which he has rendered in State Government/Indian Army has been noticed. The basic objection is that petitioner remained absent from service after 1985 and has not reported for duty, but as referred to above, no adverse decision/order has ever been passed by the respondents. Even if their objection is taken at its face value about not reporting for duty after 1985, it is a matter of fact that petitioner has rendered more than 10 years of qualifying service which make him entitle for grant of pension under Rule 54(2)(b) of Rules, 1996.

In my opinion, once petitioner has completed more than 10 years of qualifying service for the purpose of grant of pension, denial of which is in violation of Rule 54(2)(b) of Rules, 1996. No justification has been offered by the respondents for the period of service which he has actually rendered has not been considered as qualifying service for the purpose of grant of pension under the rules.

Consequently, the writ petition stands allowed. The respondents are directed to compute his pension on the basis of actual service which petitioner has rendered from 4th July, 1953 and served upto 31st December, 1963. Compliance of the order be ensured within a period of two months.

[Ajay Rastogi],J.

FRB